

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed June 2, 2005 (the "Office Action"). At the time of the Office Action, Claims 1, 9, 19-20, 22, 26-28, 30-31, 39, 49, 50, 52, 56-58, 60-61, 69, 79, 80, 82, and 103-110 were pending in the Application. The Office Action rejects Claims 1, 9, 19-20, 22, 26-28, 30-31, 39, 49, 50, 52, 56-58, 60-61, 69, 79, 80, 82, and 103-110. To further advance prosecution, Applicants amend Claim 110. Applicants respectfully request reconsideration and favorable action in this case.

Section 112 Rejections

The Office Action rejects Claim 109 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Office Action states that the specification does not disclose ". . . transmitting any packets in a transmit queue; and discarding subsequent packets received for transmission" Office Action, page 2, ¶ 2. Applicants respectfully submit that this claimed subject matter is supported by the specification as filed. For example, page 24, line 9 - page 25, line 11 support this subject matter. Therefore, Applicants respectfully request that the rejection of Claim 109 under 35 U.S.C. § 112, first paragraph, be withdrawn.

The Office Action rejects Claim 110 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Amended Claim 110 recites wherein the predefined event comprises a quality of service (QoS) event and wherein the wireless data call service comprises altering billing for the data call. Applicants respectfully submit that this claimed subject matter is supported by the specification as filed. *See, e.g.*, Specification, page 15, lines 19-23; page 16, line 21-25; page 19, line 28 – page 20, line 6; page 22, lines 22-25. Therefore, Applicants respectfully request that the rejection of Claim 110 under 35 U.S.C. § 112, first paragraph, be withdrawn.

Section 102 and 103 Rejections

Claims 1, 9, 19-20, 22, 26-28, 30-31, 39, 49-50, 52, 56-58, 60-61, 69, 79-80, 82, 103-105, and 110 are rejected under 35 U.S.C. § 102(e) as being clearly anticipated by U.S. Patent No. 6,782,253 by Shteyn et al. ("*Shteyn*"). Claims 106-109 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shteyn as applied to Claim 103 above, and further in view of U.S. Patent

Application Publication No. 2002/0029189 by Titus et al. ("*Titus*"). Applicants respectfully traverse these rejections.

Applicants respectfully submit that patentable distinctions exist between *Shteyn*, *Titus* and the pending claims. However, Applicants have attached a Declaration Pursuant to 37 C.F.R. § 1.131 swearing behind *Shteyn*. Therefore, Applicants respectfully contend that *Shteyn* is no longer available for the rejection of Claims 1, 9, 19-20, 22, 26-28, 30-31, 39, 49, 50, 52, 56-58, 60-61, 69, 79, 80, 82, and 103-110.

Applicants respectfully request that the rejections of Claims 1, 9, 19-20, 22, 26-28, 30-31, 39, 49, 50, 52, 56-58, 60-61, 69, 79, 80, 82, and 103-110 be withdrawn.

CONCLUSIONS

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further requests that the Examiner contact the undersigned attorney at (214) 953-6511 to schedule the telephone conference.

A check is enclosed to cover the fee for a one-month extension in the amount of \$120.00. Although no other fees are believed to be currently due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicants



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Reg. No. 48,022

Date: September 21, 2005

CORRESPONDENCE ADDRESS:

Customer Number: **05073**

Enclosure:

Declaration Pursuant to 37 C.F.R. § 1.131